

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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| In the Matter of |) | |
| |) | |
| Implementation of Section 304 of the |) | |
| Telecommunications Act of 1996 |) | CS Dkt. No. 97-80 |
| Devices |) | |
| |) | |
| Commercial Availability of Navigation Devices |) | |
| |) | |
| Compatibility Between Cable Systems and |) | PP Dkt. No. 00-67 |
| Consumer Electronics Equipment |) | |

COMMENTS OF PACE AMERICAS, INC.

Pace Americas, Inc. (“Pace”) hereby submits these comments in response to the Fourth Further Notice of Proposed Rulemaking (“*Notice*”) in the above-captioned proceedings.¹ Pace takes this opportunity to urge that the Commission approve its proposal to exempt digital transport adapters (“DTAs”) from the Commission’s integration ban.²

As Pace and other DTA manufacturers have noted previously,³ DTAs are an important way for cable operators to digitize their networks and free up bandwidth for

¹ *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Fourth Further Notice of Proposed Rulemaking, 25 FCC Rcd. 4303 (2010) (“*Notice*”).

² *See id.* ¶ 22.

³ *See, e.g.*, Joint Letter of Pace, *et al.* to Marlene H. Dortch, Secretary, FCC, CS Dkt. No. 97-80, GN Dkt. Nos. 09-51 *et al.* (Apr. 13, 2010) (“Joint Letter”); Joint Opposition of Pace, *et al.*, CSR-7902-Z, CS Dkt. No. 97-80, at 2-4 (July 9, 2009).

more high-definition (“HD”) channels, faster Internet, more video-on-demand services, and other services that consumers want and demand. Many cable operators continue to have a significant number of analog customers, and must allocate a large percentage of their cable plant to the delivery of analog channels. This is an inefficient use of cable bandwidth, particularly when satellite, telco, and broadcast providers are delivering services in all-digital format today. DTAs provide a low-cost way to migrate analog customers to digital. Cable operators can digitize their analog channels, and deploy DTAs so that previously analog customers can access these channels. DTAs, which are substantially cheaper than CableCARD-enabled devices, are generally provided to customers at little or no cost. Large-scale deployments of DTAs are permitting the rapid reclamation of large swaths of analog bandwidth for other services.

Pace has been a major supplier of the standard-definition (“SD”) DTAs that cable operators have been using in their digitization efforts. These devices have played an important role to date, but do not provide a complete solution for the growing number of customers with HDTVs because they cannot output HD channels. As the Commission explained previously, HD is a “commonplace” feature today in the video marketplace.⁴ Almost two-thirds of television households have HDTVs, and many customers are using HDTVs as second and third TVs in the home.⁵

⁴ See *In the Matter of Cable One, Inc.’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, Memorandum Opinion and Order, 24 FCC Rcd. 7882, ¶ 12 (2009) (“*Cable One Waiver Order*”).

⁵ See Joint Letter at 1-2 (citing Kagan and other reports regarding the growth of HDTVs in the marketplace).

HD-capable DTAs would provide a low-cost way for cable subscribers to access one-way HD channels on their HDTVs. HD DTAs would be a less expensive alternative to CableCARD-enabled HD devices, and would likely be a particularly attractive option for secondary TV sets in the home.⁶ The Commission emphasized in its *Cable One Waiver Order* the importance of removing regulatory barriers to consumers' using such low-cost HD devices, stating that it saw "no reason to provide a regulatory incentive to deprive consumers of the HD-quality programming they expected and paid for when they purchased their sets."⁷

The *Notice* asks whether a DTA exemption would substantially harm the retail marketplace for navigation devices.⁸ We do not believe so. The Unidirectional Digital Cable Ready Products available at retail, like the TiVo and Moxi devices, are far more advanced than HD DTAs, providing, among other things, DVR capability, interactive TV applications, and access to certain Internet content. HD DTAs, in contrast, provide access to one-way programming channels. In light of these substantial product differences, as the Commission concluded in its *Cable One Waiver Order*, HD DTAs are "unlikely to present a significant impediment to the development of a competitive retail market for navigation devices."⁹ Also, with respect to the Commission's common reliance goals, the cable industry has now deployed almost 20 million CableCARD-

⁶ See *Cable One Waiver Order* ¶ 12 ("Now, however, consumers are purchasing sets of all sizes with HD capabilities and using them throughout their homes.").

⁷ *Id.*

⁸ See *Notice* ¶ 22.

⁹ *Cable One Waiver Order* ¶ 13.

enabled set-top boxes,¹⁰ so the Commission's common reliance objectives have already been achieved.

Finally, the Commission asks whether it should limit any DTA exemption to smaller-capacity cable systems.¹¹ Pace believes that such an approach would harm, not help, both consumers and small system operators. All cable customers, not just those served by smaller-capacity systems, should have the option of the low-cost HD DTA to access one-way HD channels on their HDTVs. As noted, SD DTAs are simply not an adequate solution for customers with HDTVs because the SD DTAs can only deliver analog-quality video to the HDTV.

Pace also believes that limiting the DTA exemption to smaller-capacity cable systems would actually be harmful to these very systems. Smaller-capacity systems constitute a small fraction of all U.S. cable systems and an even smaller percentage of overall cable subscribers since they are primarily based in rural areas.¹² A key selling point of the DTA is its very low cost. As Pace previously advised the Commission, at volume, SD DTAs cost cable operators less than \$50 per unit.¹³ Similarly, we anticipate that, at volume, HD DTAs can be supplied at a very low cost. If, however, the exemption were limited to smaller-capacity systems, it would be difficult to achieve sufficient

¹⁰ See Letter from Neal M. Goldberg, Vice President and General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, CS Dkt. No. 97-80, at 1 (Mar. 31, 2010) (reporting that the top 10 cable operators have deployed more than 19.5 million operator-supplied set-top boxes with CableCARDs).

¹¹ See Notice ¶ 22.

¹² See Joint Letter at 2 (citing industry data on smaller-capacity systems).

¹³ See *In the Matter of Application of Pace Americas, Inc.'s Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, Request for Waiver, CSR-8177-Z, at 3 (June 11, 2009).

production scale to get per-unit costs down to such a low level.¹⁴ In contrast, if the DTA exemption were applied to all cable systems, as the FNPRM proposes, then scale economies and a lower price point could be achieved. This would benefit subscribers to both large *and* small cable operators.

For the foregoing reasons, and those set forth in the Joint Letter, Pace urges that the Commission adopt its proposed rule to exempt all DTAs from the integration ban and provide such relief to all cable systems.

Respectfully submitted,

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¹⁴ This is precisely the problem that Cable One encountered. As it reported to the Commission earlier this year, it could only achieve a lower price point for the HD DTAs if its waiver were extended to many more cable systems. *See* Letter from Arthur H. Harding, Counsel to Cable One, to Marlene H. Dortch, Secretary, FCC, CS Dkt. No. 97-80 (Feb. 25, 2010).